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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/651,170	08/30/2000	Robert Eric Montgomery	12080-4	2711

7590 07/24/2003

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EXAMINER
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ROSE, SHEP K

ART UNIT	PAPER NUMBER
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1614

DATE MAILED: 07/24/2003

20

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/651170

Applicant(s)

MONSIEUR

Examiner

S. R. R. R. R.

Group Art Unit

16.4

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

## Status

- ☒ Responsive to communication(s) filed on 06/09/03
- ☐ This action is FINAL.
- ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- ☐ Claim(s) \_\_\_\_\_ is/are pending in the application.
- Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been received.
- ☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.
- ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_
- ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☒ Other \_\_\_\_\_

Office Action Summary

BEST AVAILABLE COPY

The reply filed on June 9, 2003 is not fully responsive to the prior Office Action because of the following omission(s) or matter(s): applicant Robert Eric Montgomery's assistance is needed to conduct a required applicant search for double patenting. See 37 CFR 1.111. Since the above-mentioned reply appears to be *bona fide*, applicant is given **ONE (1) MONTH or THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

This application has been filed by co-applicant Robert Eric Montgomery, who has copending applications and patents, under different applicant names, (unfortunately), and with different assignees, and with different patent attorneys, than herein, whose claims may be material relevant and important to the issue of obviousness-type double patenting of the claims as presently amended herein, if they claim (A) tooth whitening methods or means tubes, kits, apparatus for separating first components from second components, either being encompassed species of oxidizing compounds or peroxides (original claim 5), (B), or peroxyacid precursor glyceryl triacetate (etc) (original claim 6) whether or not in first and second component tooth whitening means, whether or not they encompass carboxypolymethylene gel carriers, and whether or not they indicate this carrier or these peroxides and glyceryl triacetate to be transparent, and also if they claim any dependent claim component of dependent claim 26 to 43.

Applicant's assistance is hereby requested in the following matter.

An applicant name search has been performed (in the Palm Internal USPTO Database) since the USPTO Examiners are tasked to perform "ODP" (obvious double patenting grounds of rejection) and this is the only tool available. Applicant's assistance is required.

The entry "Montgomery, Robert Eric" produces 3 U.S. Patents: 5922307, 6,312,670 and 6,162,055 and a confidential number of pending U.S. applications, (no patents yet).

The entry "Montgomery, R. Eric" Produces a different and confidential number of pending U.S. applications, and 7 different U.S. patents: 5,944,528, 6,331,292, 6,221,341, 6,281,265, 6,322,773, 6,479,037 and 6,475,469.

The entry "Montgomery, Robert E." produces a different and confidential number of pending U.S. applications and different U.S. patents.

The entry "Montgomery, Robert" produces a differed and confidential number of pending U.S. application and different U.S. patents.

A co-applicant, namely Robert Eric Montgomery, has filed this application. The USPTO Examiners, who is tasked to perform obvious type double patenting grounds of rejection, requires applicant's assistance, since it has come to the USPTO Examiner that this applicant not only has multiple patent attorneys – in California, New York, Boston and now Chicago, and multiple assignees, but also has filed patent applications with multiple names, for example, Robert Montgomery, Robert E. Montgomery, R.E. Montgomery, and herein Robert Eric Montgomery !!

The only tool available for the USPTO Examiner to perform this task is an applicant inventor name search in the PALM (Internal USPTO) Date Base.

To the Examiner's dismay, applicant's applications filed under Eric Montgomery, and vice versa, the applicant's applications in the Robert Montgomery file, do not pick up applications filed as Eric Montgomery, or herein, as Robert Eric.

Please send copies of all of co-applicant's applications and Montgomery patents that relate to such acetic acid esters of glycerin, and to tooth whitening methods and means separating first and second components, etc.

The reply filed on June 9, 2003 is not fully responsive to the prior Office Action because of the following omission(s) or matter(s): the USPTO Examiner has been tasked to conduct obvious double patenting rejections by any named applicant, and needs the cooperation of applicant, to request copies of all of his claims, in all of his copending applications, and patents, if they claim any compound active agents and means: apparatus, device, kits, or other means, that would be material, relevant and important to the issues of patentability, for the purpose of investigation of the issue of obviousness-type double patenting of newly presented claims 6, 14, 25 to 43.

This co-applicant, Robert Eric Montgomery herein naming applicant, who signed the oath herein as Robert Eric Montgomery (full name of inventor), Robert E. Montgomery, in copending applications with other assignees and attorneys, is also as "R. Eric Montgomery" as signed in copending 10/050,196 since the only tool the USPTO patent examiner has is an Inventor name search for LAST NAME and FIRST NAME.

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There are many entries for Montgomery, Robert and for Montgomery, Eric in the Inventor name search, (there is another R.E. Montgomery active in this area), and in both name search fields, some titles seems to be the applicants' and pertinent. The constructively elected claims of record will (eventually) be rejected for obviousness-type double patenting on claims 1 to 48 in child application 10/434,597 (as well as parent 6162055) taken with prior art and copending or patented Robert Eric Montgomery claims. However, it has come to the undersigned USPTO examiner's attention that this applicant has multiple patent attorneys and possibly more than one assignee, so no one patent attorney may have the complete listing of this applicants claims relevant to the obviousness-type double patenting issue, which requires applicant's assistance which is now respectfully requested.

See 37 CFR 1.111. Since the above-mentioned reply appears to be *bona fide*, applicant is given **ONE (1) MONTH or THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shep Rose whose telephone number is (703) 308-4609. The examiner can normally be reached on Monday, Tuesday, and Thursday 7:30am-6pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marianne Seidel can be reached on (703) 308-4725. The fax phone number for the organization where this application or proceeding is assigned is (703) 308-4556.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1235.

Rose/tgd  
July 22, 2003

*Shep Rose*  
SHEP K. ROSE  
PRIMARY EXAMINER

Shep Rose  
Senior Primary Examiner  
Art Unit 1614

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marianne Seidel can be reached on (703) 308-4725. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-4556 for regular communications and (703) 308-4556 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1235.

Rose/LR  
April 19, 2002

*Shep Rose*  
SHEP K. ROSE  
PRIMARY EXAMINER  
GROUP 1200